

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1962-AIR-E TCEQ ID: RN100215243 CASE NO.: 35065
RESPONDENT NAME: Amerrock Products, LP

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Amerrock Products Nolanville Plant, 1 Jack Rabbit Road, Nolanville, Bell County</p> <p>TYPE OF OPERATION: Rockwool manufacturing plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Donald P. Fisher, Plant Manager, Amerrock Products, LP, 1 Jack Rabbit Road, Nolanville, Texas 76559 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 25, 2007</p> <p>Date of NOV/NOE Relating to this Case: November 25, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failed to maintain cupola furnace oxygen flow at a minimum 38 standard cubic feet per minute ("scfm") [New Source Review Air Permit No. 9397/PSD-TX-625-M1, Special Condition 6, 30 TEX. ADMIN. CODE §§ 116.115(c) and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,450</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,450</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three or more NOV's over the prior five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by June 1, 2007, the Respondent set the cupola furnace oxygen flow meter to 42 scfm, in order to ensure the required minimal 38 scfm.</p>

Additional ID No(s): BF0107S



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	3-Dec-2007	Screening	6-Dec-2007	EPA Due	
	PCW	3-Jan-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Amerrock Products, LP		
Reg. Ent. Ref. No.	RN100215243		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	35065	No. of Violations	1
Docket No.	2007-1962-AIR-E	Order Type	Findings
Media Program(s)	Air	Enf. Coordinator	Terry Murphy
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **Subtotals 2, 3, & 7**

Notes

The penalty was enhanced by one 1660-style agreed order and four NOV's for same or similar violations.

Culpability

No

0% Enhancement

Subtotal 4

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25% Reduction

Subtotal 5

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

(mark with x)

Notes

The Respondent returned to compliance on June 1, 2007 and the Notice of Enforcement is dated November 27, 2007.

Total EB Amounts
Approx. Cost of Compliance

0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6

SUM OF SUBTOTALS 1-7

Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

DEFERRAL

0%

Reduction

Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 6-Dec-2007

Docket No. 2007-1962-AIR-E

PCW

Respondent Amerrock Products, LP

Policy Revision 2 (September 2002)

Case ID No. 35065

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100215243

Media [Statute] Air

Enf. Coordinator Terry Murphy

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The penalty was enhanced by one 1660-style agreed order and four NOVs for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date 6-Dec-2007 Respondent Amerrock Products, LP Case ID No. 35065 Reg. Ent. Reference No. RN100215243 Media [Statute] Air Enf. Coordinator Terry Murphy Violation Number <input type="text" value="1"/> Rule Cite(s) New Source Review Air Permit No. 9397/PSD-TX-625-M1, Special Condition 6, 30 Tex. Admin. Code §§ 116.115(c) and 101.20(3), and Tex. Health & Safety Code § 382.085(b) Violation Description Failed to maintain cupola furnace oxygen flow at a minimum 38 standard cubic feet per minute (scfm). Specifically, on January 5, February 28, and March 29, 2007, oxygen to the furnace fell to 35.5, 37.3, and 35.9 scfm, respectively, as documented during an investigation conducted on October 25, 2007.	Docket No. 2007-1962-AIR-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision November 6, 2007</i>																			
Base Penalty <input type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td>Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"> Percent <input type="text" value="10%"/> </td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>	Potential	<input type="text"/>	<input type="text"/>	x
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>> Programmatic Matrix																				
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"> Percent <input type="text" value="0%"/> </td> </tr> </table> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Human health or the environment could have been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violations. </div>		Major	Moderate	Minor		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>									
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quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	x																			
Three single events are recommended.																				
Economic Benefit (EB) for this violation																				
Statutory Limit Test																				
Estimated EB Amount <input type="text" value="\$14"/>	Violation Final Penalty Total <input type="text" value="\$3,450"/>																			
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,450"/>																				

Economic Benefit Worksheet**Respondent** Amerrock Products, LP**Case ID No.** 35065**Reg. Ent. Reference No.** RN100215243**Media** Air**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$500	5-Jan-2007	1-Jun-2007	0.4	\$1	\$13	\$14
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to reset the oxygen flow to 42 scfm and provide additional oxygen to the process. The Required Date is the day of the first violation, and the Final Date is the date the company made the adjustment.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$500

TOTAL

\$14

Compliance History

Customer/Respondent/Owner-Operator:	CN603013855	Amerrock Products, LP	Classification: AVERAGE	Rating: 2.83
Regulated Entity:	RN100215243	AMERROCK PRODUCTS NOLANVILLE PLANT	Classification: AVERAGE	Site Rating: 2.66
ID Number(s):	AIR OPERATING PERMITS AIR OPERATING PERMITS INDUSTRIAL AND HAZARDOUS WASTE GENERATION INDUSTRIAL AND HAZARDOUS WASTE GENERATION AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS	ACCOUNT NUMBER PERMIT SOLID WASTE REGISTRATION # (SWR) EPA ID PERMIT PERMIT ACCOUNT NUMBER AFS NUM PERMIT PERMIT PERMIT	BF0107S 1134 34993 TXR000042598 9397 48559 BF0107S 4802700028 50933 50933	
Location:	1 JACK RABBIT RD, NOLANVILLE, TX, 76559		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	December 10, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 10, 2003 to December 10, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Terry Murphy		Phone:	(512) 239-5025

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Amerrock Products, LP
4. If Yes, who was/were the prior owner(s)? American Rockwool Insulation dba
Thermafiber, Inc.
5. When did the change(s) in ownership occur? 1/1/2006

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/06/2005	Admin. Order 2005-0335-AIR-E
Classification: Moderate	
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)	
Rqmt Prov: Sp. Cond. No. 1 PERMIT	
Description: Thermafiber failed to comply with Special Condition No. 1 of TCEQ Permit No. 9397 PSD-TX-625-M1.	
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 01/14/2004 (259515)	11 06/30/2005 (398454)
2 02/13/2004 (262194)	12 08/11/2005 (404620)
3 02/27/2004 (264310)	13 03/08/2006 (458289)
4 03/05/2004 (264953)	14 04/07/2006 (461839)
5 06/09/2004 (274877)	15 05/16/2006 (466328)
6 06/29/2004 (278370)	16 07/19/2006 (487420)
7 08/10/2004 (289121)	17 08/03/2006 (490033)
8 12/14/2004 (342521)	18 02/05/2007 (534964)
9 02/23/2005 (371889)	19 02/28/2007 (542005)
10 05/11/2005 (380734)	20 03/01/2007 (542644)
	21 09/28/2007 (596231)
	22 11/26/2007 (609200)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/13/2004 (262194)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.610
Description: Failure to comply with 40 Code of Federal Regulations(CFR), Part 63, Subpart DDD, for not having the automated record keeping system properly activated.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to comply with the Special Condition No. 6 of TCEQ Permit No. 9397 PSD-625-M1 which requires the oxygen injection rate to be maintained at a minimum flow rate of 38 standard cubic feet per minifue.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to comply with Special Condition No. 1 of TCEQ Permit No. 9397 PSD-625-M1.
Date: 04/07/2006 (461839)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT 9397PSD-TX-625M1/Special Condition No. 6
Description: Failure to comply with TCEQ Permit No. 9397 PSD-TX-625M1, Special Condition (SC) 6; which requires the facility to maintain the oxygen injection rate at a minimum flow rate of 38 standard cubic feet per minute(scfm).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT 9397PSD-TX-625M1/Special Condition No. 1
Description: The facility failed to comply with SC No. 1 of TCEQ Permit No. 9397 PSD-TX-625M1, which requires the facility to comply with the emission rates stated in the maximum allowable emission rates table(MAERT).
Date: 01/03/2007 (534964)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to maintain oxygen injection rate at a minimum flow rate of 38 standard cubic feet per minute.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to adhere to the emission limits stated in the MAERT.
Date: 02/26/2007 (542005)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to maintain oxygen injection rate at a minimum flow rate of 38 standard cubic feet per minute.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to adhere to the emission limits stated in the MAERT.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AMERROCK PRODUCTS, LP
RN100215243**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1962-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Amerrock Products, LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a rockwool manufacturing plant at 1 Jack Rabbit Road in Nolanville, Bell County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on October 25, 2007, TCEQ staff documented that the Respondent failed to maintain cupola furnace oxygen flow at a minimum 38 standard cubic feet per minute ("scfm"). Specifically, on January 5, February 28, and March 29, 2007, oxygen to the furnace fell to 35.5, 37.3, and 35.9 scfm, respectively.
4. The Respondent received notice of the violations on November 30, 2007.
5. The Executive Director recognizes that by June 1, 2007, the Respondent set the cupola furnace oxygen flow meter to 42 scfm, in order to ensure the required minimal 38 scfm.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to maintain cupola furnace oxygen flow at a minimum 38 scfm, in violation of New Source Review Air Permit No. 9397/PSD-TX-625-M1, Special Condition 6, 30 TEX. ADMIN. CODE §§ 116.115(c) and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Three Thousand Four Hundred Fifty Dollars (\$3,450) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Three Thousand Four Hundred Fifty Dollar (\$3,450) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Three Thousand Four Hundred Fifty Dollars (\$3,450) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations

that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Amerrock Products, LP, Docket No. 2007-1962-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

Amerrock Products, LP
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

4/6/2008
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Amerrock Products, LP. I am authorized to agree to the attached Agreed Order on behalf of Amerrock Products, LP, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Amerrock Products, LP waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Donald P. Fisher
Signature

3/20/08
Date

Donald P. Fisher
Name (Printed or typed)
Authorized Representative of
Amerrock Products, LP

Plant Mgr.
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

